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ABSTRACT

Collective bargaining at public institutions of higher education has the potential for creating an atmosphere allowing political interference with academic freedom. Most contracts signed at public institutions contain a section that states that certain economic issues are subject to the approval or funding of the state legislature before they become effective - the "saving clause." The legislature is given the ability to thwart the provisions or intent of the collective bargaining agreement and exert political pressure on the institutions. (JMF)

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The Savings Clause: A Threatening Cloud

by

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Collective bargaining in higher education is today still in its infancy. University administrators and faculty union representatives are exploring a new type of collective bargaining totally different from private sector collective bargaining. However, the contracts that have been negotiated show some alarming trends.

The wording of the various provisions in any collective bargaining agreement is in itself a most difficult task in order that the real intent of the parties involved in the negotiations is understood by all. There are provisions in collective bargaining contracts at public institutions of higher education that could destroy the very heart of academic freedom for faculty members.

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The following brief section of this paper is written for those members of the faculty who do not remember the interference by state governments in the affairs of higher education during the 1930s and 1940s and the political turmoil that surrounded these acts. Most states did not escape these divisive and destructive power tactics by politicians at the state level to interfere in the academic freedom of faculty. Perhaps the State of Georgia is typical of this type of action.

The late Governor Eugene Talmadge decided to make the "liberal" community at the University of Georgia a campaign issue with the rural populate of that state. He "packed" the Board of Regents with his political followers and began his anti-liberal campaign resulting in dismissals of those administrators and faculty who did not subscribe to his political views. The university and its personnel soon became the "enemies". Academic freedom was non-existent and a variety of accrediting agencies withdrew their accreditation from various colleges at the university. Every possible sanction was used by the late Governor Eugene Talmadge to eliminate those who even voiced opposition to his intrusion. The members of the Georgia legislature followed Governor Talmadge's planned actions against the academic community and candidates for public office tried to outdo each other in heaping scorn and ridicule on faculty members.

The ramifications of this campaign against academic freedom, of this strong negative political influence directed against an institution of higher education, of the sudden upheavals in the lives of competent people were felt for years to come. In fact, the last traces of this anti-faculty feeling were finally removed when the Board of Regents of the University System of Georgia approved the appointment some 8 years ago of former U. S. Secretary of State Dean Rusk to the faculty despite the opposition of one or two remaining Talmadge admirers on the Board.

Today, Georgia has perhaps one of the finest laws concerning the appointment of members of the Board of Regents of any in the United States. No governor will ever again be able to dominate, through his appointments, this important organization. But the struggle for this law was difficult.

Why should this review of the political interferences into institutions of higher education be given attention? It is the author's conviction that collective bargaining at public institutions of higher education has the potential for creating an atmosphere similar to that experienced some thirty or more years ago...political interference with academic freedom.

A review of most of the contracts signed at public institutions of higher education reveal that in each there is a section that states quite blandly that certain economic issues are subject to the approval or funding of the state legislature before they become effective.

Here is a typical example. In the agreement between the State University Board for the State of Minnesota and the Inter-Faculty Organization and the Minnesota Education Association the following "saving clause" is found. "If any of the provisions of this Agreement shall in any manner be held by a court or agency to be in conflict with or contravene any federal law or statute, executive order, state law or statute, or any rule and regulation promulgated pursuant to one of the above, or not approved by legislative action, such provision shall be considered null and void and shall not be binding on the parties hereto; in such event, the remaining provisions of this Agreement shall remain in full force and effect. In the event that any provision of this Agreement is thus found to be invalid or rejected; either party shall have the right to reopen negotiations on that provision only." Similar savings clauses are found in other contracts at public institutions of higher education.

While faculty members write documented accounts of their organizing

campaign, while unions are reporting impressive gains affecting personnel policies in the short time they have been representing faculty, and while university administrators fret over the loss of power to unionized faculty, a great threat looms for all parties-- that of political interference at public institutions of higher education.

Many scholars and practitioners have written about the three types of relationships that affect the governance issues of higher education institutions. The collegial, bureaucratic, and political images have each received their fair amount of attention and research. Most authorities in the area of collective bargaining in higher education agree that the political image is becoming more dominant due to collective bargaining.

But when these writers discuss this image of politics, they speak mainly of the competition between colleges, departments and institutes within a university that exert pressure to gain favorable decisions. This type of political image is not new, but do the savings clauses in faculty contracts of public institutions of higher education open the door for a different type of political activity or image? The threat and potential are there.

Let's look at the following scenario. After several months of intensive negotiations at a public institution of higher education, the administration and faculty reach an agreement for, among other things, a 10% pay increase for all faculty with additional monies allocated to existing inequities in pay. In this union contract there is the usual savings clause described earlier in this paper. Mr. John Doe, an ambitious politician and member of the state legislature raises a question about those "egg head" professors receiving large pay increases. He tells his colleagues in the legislature that all that faculty members do is sit around and read books and talk among themselves and refuse to help students obtain employment. He states that the students don't receive

any knowledge that will be worthwhile to the student in later years. He asks for the appointment of a legislative committee to investigate the work schedule of faculty to determine if the work load of faculty members warrants such a pay increase. He also moves that the increased appropriations to pay for the salary increases be tabled until such a report is issued. He is joined by many of his fellow legislators who have campaigned and won election on the premise that there should be less state monies spent to the taxpayer could get a "break." Other legislative members join him in support because the salaries of legislators and state cabinet officers is well below that of many professors and that is a cardinal sin. The witch hunt begins. Headlines in newspapers across the state proclaim that a faculty member spends only 9-12 hours a week in class teaching and "gets all that money." The funds are not appropriated and under the savings clause the parties must begin again to find a solution to the pay increase problem.

One would like to think that the days of "witch-hunting" are over, and they may well be, but the days of ambitious politicians will be with us for some time to come. What a campaign issue! Nine to twelve hours of teaching and pay averaging $36.00 per hour. Of course, academicians recognize the fallacies, but academicians aren't legislative politicians. What an emotional issue this would raise.

Never happen? Stranger things have happened in state politics. The savings clause has the potential for destroying the very things that other provisions of the faculty contract try to preserve...issues of governance, academic freedom, economic benefits and elimination of any form of favoritism in promotion and tenure. Faculty union contracts are contradictory, schizophrenic and threatening in a political sense not fully realized by members of academia.

This new political threat has already become evident in many localities, especially among public school teachers. The recent contract settlement for public school teachers in Pittsburgh was characterized by bitter political fighting. And although wage increases were granted, the total budget was decreased and many teachers were laid off.

Will the pendulum theory work against academic freedom, issues of governance and other contractual gains in faculty contracts? The potential exists today for gains and benefits to be subjected harsh and naive legislative criticism. Since political bodies are never static, who knows when the political members of a state will destroy completely the things that faculty have obtained. The savings clause opens the door for state politicians to do just that...and then faculty collective bargaining will be self-defeating.

Faculty view their role as threefold: teaching, research and public service. Will this traditional role be changed to one of teaching and lobbying. Will the old theme of publish or perish be replaced with a newer one lobby or perish?

The savings clause in public institutions of higher education is a threatening cloud in the expanding area of collective bargaining in higher education. And unfortunately, it is a threatening cloud that will not go away.